

Remarks

Reconsideration of this Application as amended herein is requested.

The Examiner has objected to the drawings on the ground that "a single magnetic airgap" as claimed in claim 11 is not shown. Applicant respectfully invites the Examiner's attention to Figs. 1 and 2A, which each show a single annular airgap 42 and 87, respectively, between the co-rotation halves of the rotor. This structure is described on page 6, lines 29-3, and page 8, lines 13-15. The sectional views of Figs. 1 and 2A might superficially make it look like there are two airgaps, one on each side of the rotational axis, but that is simply because they are sectional views of cylindrical structures.

Claims 1, 4 and 9 have been rejected under 35 USC 112 as indefinite because of the inclusion of a "whereby" statement. Applicant submits that a "whereby" statement is a statement about the function of the claimed invention and does not, in and of itself, render a claim indefinite. If it did, many of the patents issued by the USPTO would be invalid. Whereby clauses are very common in patent claims. See, for example, the Kawai reference of record. The Examiner may chose to attribute no patentable significance to a "whereby" clause if he considers that it does not offer structural limitations, or he may chose to give it patentable significance if he considers it to provide clarity about the structural relationships in terms of the functional interactions of the structural elements of the claimed invention, but Applicant would prefer to leave a functional recitation in the claims because a court and a jury is likely to consider the "whereby" clause (or a functional recitation that relates the structural elements together functionally) to be a significant factor in patentability. It does not make the scope of the claim less clear to a person of ordinary skill in the art; if anything, it adds clarity and meaning to the claim when interpreted in light of the specification.

Applicant, despite his opinion that a whereby clause does not render a claim indefinite, has amended claims 1, 4 and 9 to claim the subject matter in a more structural form, using as a guide the claim drafting technique in claim 11 of Caamano P/N 5,731,649 issued by Examiner Nguyen. Applicant believes this is an improved and more definite structural approach to claim drafting that should satisfy the requirements of 35 USC 112. .

Claim 6 has been rejected under 35 USC 112 as indefinite because "it is relating the operating and/or controlling the machine via applying current, rather than further reciting the structural limitations of the machine." Claim 6 further limits the subject matter of claim 4 by adding an additional functional limitation, wherein:

application of current to said field coil bucks or boosts the AC voltage induced in said windings depending on the polarity of the current to said field coil.

There is nothing inherently wrong with defining some part of an invention in functional terms. Functional language does not, in and of itself, render a claim indefinite. MPEP 2173.05(g). However, Applicant has amended the language of claim 6 to present it in structural form and inserted it into all the independent claims 1, 4 and 9. Since claim 6 was not rejected on art, Applicant believes that amended claims 1, 4 and 9 and their dependent claims are now patentable.

Accordingly, Applicant believes that the claims now pending in this application distinguish patentably over the cited prior art. If the Examiner, after his independent reconsideration of these claims in view of the references and the remarks above, concurs with Applicant, he is requested to pass this application to issue. If the Examiner believes that this application contains patentable subject matter but contains some items that could be resolved by Examiner's Amendment, he is cordially invited to call Applicant's attorney at the telephone number given below to discuss the matter.

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Respectfully submitted,



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